

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALPHA INDUSTRIES, INC.,

Plaintiff,

-v.-

ALPHA CLOTHING CO. LLC and RYAN  
TANNER MUELLER,

Defendants.

21 Civ. 00087 (KPF)

**ORDER**

KATHERINE POLK FAILLA, District Judge:

On February 26, 2021, a Clerk's Certificate of Default was entered as to Defendants in this matter (*see* Dkt. #19), but no default judgment followed. Defendants subsequently filed several submissions on the docket (*see* Dkt. #20-21, 23), including a motion to transfer the venue of this action (Dkt. #20), and appeared for a conference on March 11, 2021. After hearing the parties' positions on whether default should be granted or vacated, and considering the "widely accepted" factors used by courts in this Circuit in determining whether to relieve a party from default, *see Enron Oil Corp. v. Diakuhara*, 10 F.3d 90, 96 (2d Cir. 1993), the Court directs the Clerk of Court to vacate the Certificate of Default entered in favor of Plaintiff at docket entry 19. The Court understands that counsel for Defendants will promptly file a notice of appearance.

Separately, the Court schedules the responsive briefing to Defendants' motion to transfer the venue of this action as follows: Plaintiff's opposition brief is due on or before April 16, 2021, and any reply from Defendants is due on or before April 30, 2021.

SO ORDERED.

Dated: March 12, 2021  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

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KATHERINE POLK FAILLA  
United States District Judge